

REMARKS

Claims 1-8, 10-20, and 33-36 are pending. Claims 1-8, 10-12, 17-20, 23-26, and 32-36 are rejected, and claims 13-16, and 27-31 are objected to. Claims 1, 2, 33, and 35-36 are amended, and claim 34 is canceled. Claims 1, 2, and 33 are independent claims.

Independent claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent no. 5,292,022 (Blanco) in view of U.S. patent no. 4,927,048 (Howard). Independent claim 1 has been amended to recite that “at least a portion of the separable portion of the center panel is uncovered when the filler material is covering the *entire* groove.” (emphasis added). Applicant submits that neither Blanco nor Howard teach such a structure.

Rather Blanco teaches a protective sheet that is formed as a disk and covers the entire can end. In order to uncover the separable portion of Blanco the protective sheet must be partially removed as shown in FIG. 3 of Blanco. Therefore, when a portion of Blanco’s separable portion is uncovered, the protective sheet is NOT covering the entire (would be) groove, as required by claim 1.

Similarly, Howard teaches a protective cover that is formed as a disk and covers the entire can end. Like Blanco, in order to uncover the separable portion of Howard, the protective cover must be partially removed. Therefore, when a portion of Howard’s separable portion is uncovered, the protective cover is NOT covering the entire groove, as required by claim 1. Accordingly, applicant submits that claim 1 (and claims 3-17 which ultimately depend therefrom) are in condition for allowance.

Independent claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Blanco in view of Howard. Claim 2 recites a synthetic filler material formed into a ring and suitable for use in or on a drink container (i) covering the groove and (ii) merging with the upper surface of the center panel, where at least a majority of the center panel is uncovered when the filler material is covering at least a majority of the groove. Applicant submits that neither Blanco nor Howard teach such a combination of features.

Rather when Blanco's protective sheet is opened, a majority of its center panel is uncovered, however a majority of its (would be groove) would NOT be covered. Accordingly, Blanco does not teach a synthetic filler material formed into a ring and suitable for use in or on a drink container (i) covering the groove and (ii) merging with the upper surface of the center panel, where at least a majority of the center panel is uncovered when the filler material is covering at least a majority of the groove, as recited in claim 2.

Similarly Howard does not teach a synthetic filler material formed into a ring and suitable for use in or on a drink container (i) covering the groove and (ii) merging with the upper surface of the center panel, where at least a majority of the center panel is uncovered when the filler material is covering at least a majority of the groove, as recited in claim 2. Accordingly, applicant submits that claim 2 (and claims 18-20, 23-32, and 34 which ultimately depend therefrom) are in condition for allowance.

Independent claim 33 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Blanco in view of Howard. Claim 33 recites a synthetic filler material suitable for use in or on a drink container (i) covering at least a portion of the recess that is proximate to the separable portion of the center panel and (ii) merging with an upper surface of the center panel, wherein at least a portion of the separable portion of the center panel is uncovered when the filler material is covering a portion of the recess that is proximate to the separable portion. Applicant submits that neither Blanco nor Howard teach such a structure. Therefore, applicant submits that claim 33 and 36 which depends therefrom are in condition for allowance.

For the foregoing reasons applicant respectfully requests a Notice of Allowance for the pending claims. If the examiner determines that a teleconference would further the prosecution of this case, he is invited to call the undersigned at his convenience.

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